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Attorney for Plaintiff, JOSHUA ASSIFF

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSHUA ASSIFF,

Plaintiff,

v.

COUNTY OF LOS ANGELES;
SHERIFF DEPUTY BADGE
NUMBER 404532;
And DOES 1 through 10,

Defendants.

Case No. 2:22-cv-05367 RGK (MAAx)

**MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO
DEFENDANTS' MOTION IN LIMINE
#7**

Action Filed: August 3, 2022
Pretrial Conference: July 10, 2023
Trial Date: July 25, 2023

Assigned to: Hon. R. Gary Klausner,
District Judge, Courtroom 850

Plaintiff, JOSHUA ASSIFF (hereinafter "Plaintiff") hereby respectfully submits the following memorandum of points and authorities in opposition to Defendants' motion in limine #7 to preclude any "evidence, references to evidence, witness testimony, contentions, or cross-examination relating to Plaintiffs economic damages that are not reasonable and/or necessary."

I. INTRODUCTION

Plaintiff is a 21-year old black male and a student at Antelope Valley College where he plays basketball. Plaintiff was driving from his home to a teammate's house

1 in order to carpool to basketball practice. For no apparent reason and without
2 probable cause, KELLY, a male Caucasian motorcycle Sheriff deputy, pulled
3 Plaintiff over. For no apparent reason and without probable cause, KELLY – as well
4 as other deputies who subsequently responded to the call – all tasered, choked, pepper
5 sprayed, beat and arrested Plaintiff. Plaintiff has asserted the First Cause of Action
6 against KELLY for violation of 42 USC § 1983 (arrest without probable cause and
7 with excessive force).

8 **II. THIS MOTION IS DEFECTIVE, AND SHOULD BE DENIED**

9 Defendants argue that “evidence, references to evidence, witness testimony,
10 contentions, or cross-examination relating to Plaintiffs economic damages that are
11 not reasonable and/or necessary” should be precluded. However, the motion does
12 not really complain about the reasonableness or necessity of any alleged damages,
13 but rather the discrepancy between Plaintiff’s Rule 26 disclosure and the evidence
14 that they discovered to back up that disclosure. However, even that argument is
15 defective, as the evidence that Defendants refer to in their motion is obviously
16 referring to PAST economic damages whereas the Rule 26 disclosure refers to
17 FUTURE economic damages. Defendants are comparing apples to oranges.

18 **III. THIS MOTION IS VAGUE AND AMBIGUOUS AS TO WHAT**
19 **EVIDENCE IT REFERS TO, AND SHOULD BE DENIED**

20 Defendants argue that “evidence, references to evidence, witness testimony,
21 contentions, or cross-examination relating to Plaintiffs economic damages that are
22 not reasonable and/or necessary” should be precluded. However, it is unclear what
23 evidence this motion refers to. The motion fails to identify what evidence the motion
24 pertains to. Thus, any order based upon this motion would be fatally vague, and
25 Plaintiff would not know how to comply with the order or what might violate it.
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1 **IV. CONCLUSION**

2 For the reasons set forth above, this motion should be denied.

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4 DATED: June 30th, 2023

The Law Office Of Thomas M. Ferlauto, APC

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6 By:  _____

7 Thomas M. Ferlauto

8 Attorney For: Plaintiff, JOSHUA ASSIFF
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